

REMARKS

The Applicants have studied the Final Office Action mailed December 5, 2007 and have made amendments to claim 3, 10, and 16. By virtue of this Response With Amended, claims 3-7, 10-14 and 16-20 are pending. It is submitted that the application is in condition for allowance or is at least in a better condition for appeal. Reconsideration and allowance of the pending claims in view of the amendments and following remarks are respectfully requested. In the Office Action the Examiner:

In the Office Action, the Examiner:

- rejected claims 3, 6-8, and 13-14 under 35 U.S.C. § 103(a) as being unpatentable over Hsia (U.S. Pre-Grant Publication No. 2002/0178166) in view of Ratliff et al. (U.S. Pre-Grant Publication No. 2003/0191725); and
- rejected claims 4, 5, 11-12, and 17-18 under 35 U.S.C. § 103(a) as being unpatentable over Hsia (U.S. Pre-Grant Publication No. 2002/0178166) in view of Ratliff et al. (U.S. Pre-Grant Publication No. 2003/0191725) and in further view of Maritzen et al. (US Pre-Grant Publication No. 2002/0052797).

Rejection of Claims Under 35 U.S.C. §103(a) in view of Hsia and Ratliff

As noted above, the Examiner rejected claims 3, 6-8, and 13-14 under 35 U.S.C. § 103(a) as being unpatentable over Hsia (U.S. Pre-Grant Publication No. 2002/0178166) in view of Ratliff et al. (U.S. Pre-Grant Publication No. 2003/0191725). The Applicants respectfully traverse this rejection. Amended independent claim 3 (and similarly independent claims 10 and 16) recites:

A method for pricing ~~the~~ a product and/or service at a website, the method comprising:

receiving an order at a first web site directly from a buyer for a product and/or service for sale on the first web site, wherein the product and/or service is available for purchase in one or more configurations, and wherein the order comprises a request to purchase a selection made by the buyer for at least one of the one or more configurations of the product and/or service;

instructing, by the first web site in response to receiving the order, at least one web-crawler to query at least a second website for retrieving at least one competitor's pricing information for the at least one of the one or more

configurations in the order received directly from the buyer, wherein the web-crawler retrieves the at least one competitor's pricing information after the order has been received from the buyer;

reading, by the first website, the at least one competitor's pricing information collected from the at least second web site for the at least one of the one or more configurations in the order received directly from the buyer;

before presenting a selling price to the buyer by the first website, calculating, by the first website, the selling price for the at least one of the one or more configurations in the order received directly from the buyer of the product and/or service based on a competitor's price associated with the at least one competitor's pricing information as follows:

in response to the competitor's price being higher than a highest price that a market will bear, set the selling price to the highest price that the market will bear;

in response to the competitor's price being; i) lower than the highest price that the market will bear and ii) higher than a lowest profitable price at the first web site, set the selling price at the competitor's price;

in response to the competitor's price being lower than the lowest profitable price at the first web site, set the selling price at the lowest profitable price; and

presenting, by the first website, the at least one of the one or more configurations of the product and/or service which has been ordered for the selling price which has been calculated based on the competitor's price.

Support for this amendment can be found in the Pre-Grant Publication of the present patent application at, for example, paragraphs [0031]-[0033]. No new matter has been added.

The Applicants would like to first point out to the Examiner that amended claim 3 is directed at “a web site offering at least one of a product and/or a service for sale for pricing the product and/or service”. In other words, each of the elements of claim 3 is performed by the website where the buyer has ordered one or more configurations of a product and/or service. Nowhere does Hsia individually and/or in combination with Ratliff teach or suggest that each of these elements are occurring at the website where a buyer has placed the order.

Hsia is directed to a service referred to as “KnowledgeByGo” that tracks and analyzes browser behavior in real-time. In particular, data analysis is delivered to the website owner or marketing agent to decide if a real time response or off line campaign needs to be initiated. Hsia teaches that the KnowledgeByGo service allows real-time behavioral tracking and prediction; customer relation management; one-to-one banner manager; site analysis reporting service; industry wide

marketing research reports; product management; order processing; secure payment system; customer contact manager etc.

The Examiner states that Hsia teaches:

receiving an order at a first web site directly from a buyer for a product and/or service for sale on the first web site (Fig. 2 and ¶¶0035-0036 — note the order is an inquiry into computers and the web site is "Direct411.com")

However, amended claim 3 now more clearly recites:

receiving an order at a first web site directly from a buyer for a product and/or service for sale on the first web site, wherein the product and/or service is available for purchase in one or more configurations, and wherein the order comprises a request to purchase a selection made by the buyer for at least one of the one or more configurations of the product and/or service

Nowhere does Hsia teach or suggest this claim element. An “order” as recited for the present invention is not an “inquiry” as asserted by the Examiner. The users submits an order to the website for purchasing a selected configuration(s) of a product and/or service. Paragraphs [0035]-[0036] of Hsia merely state that a user goes to a website and enters an offer code at the site. The KnowledgeByGo service then instructs the website how to customize the site for the user. For example, Hsia teaches at paragraph [0019] that a “[a] user visit[s] website. The website id's the user from the user's GoCookie (assuming the user has one computer). The id gets sent to GoSync central servers where the relevant customer info is sent back to the website. The website then takes information from GoClick, GoCheck and GoCookie and sends it to GoScenario where an administrative rule table 111 tells the ASP how to customize website visits.” As can be seen, nowhere does Hsia teach or suggest “receiving an order at a first web site directly from a buyer for a product and/or service for sale on the first web site, wherein the product and/or service is available for purchase in one or more configurations, and wherein the order comprises a request to purchase a selection made by the buyer for at least one of the one or more configurations of the product and/or service”. Accordingly, the presently claimed invention distinguishes over Hsia for at least these reasons.

The Examiner further states that Hsia teaches:

instructing at least one web-crawler to query at least a second website for retrieving at least one competitor's pricing information for the product (§0043)

However, amended claim 3 now more clearly recites:

instructing, by the first web site in response to receiving the order, at least one web-crawler to query at least a second website for retrieving at least one competitor's pricing information for the at least one of the one or more configurations in the order received directly from the buyer, wherein the web-crawler retrieves the at least one competitor's pricing information after the order has been received from the buyer;

Hsia does not teach that the website instructs a spider, but that the KnowledgeByGo service sends out the spider to obtain pricing information. The KnowledgeByGo service can then instruct a website how to provide pricing information to a customer. For example, paragraph [0024] of Hsia states "The GoCheck system spiders competitor sites to check a competitor's product content, pricing, product availability, and hot selling products. The information is verified with multiple different sources on the Internet on real-time basis. The GoCheck system FIG. 1, 130, then updates the GoScenario administrative rule table to offer competitive prices." Paragraph [0043] of Hsia states "The GoCheck Cyber Pricing Database and System 130, spiders the sites of its competitors and feeds that information into the GoScenario Server 110 where it is stored in the GoScenario Product Content Database 114 along with the information from the Client Product Mapping information 140. Should a competitor offer a sale on a comparable item within the next week, Custer may feel that he overpaid. Here, the administrative rule table 111 can be programmed to suggest an ad from the GoClick Banner Inventory Database 120 so that Custer is offered a competitive retroactive instant rebate discount the next time he visits a KnowledgeByGo enabled site."

As can be seen, the website visited by a user in Hsia does not instruct a spider, the KnowledgeByGo does the instructing. Furthermore, nowhere does Hsia teach that the website instructs a spider in response to receiving the order nor does Hsia teach that the spider retrieves pricing information after an order has been received. Hsia merely teaches that the KnowledgeByGo services send a spider to obtain pricing information. The presently claimed invention has the distinct advantage over Hsia in that since the spider collects pricing information after the buyer submits his/her order the pricing information is as current as possible.

Accordingly, the presently claimed invention distinguishes over Hsia for at least these reasons as well.

The Examiner further states that Hsia teaches:

reading the at least one competitor's pricing information collected from at least second web site for the product (§§0024 and 0043)

However, amended claim 3 now more clearly recites:

reading, by the first website, the at least one competitor's pricing information collected from the at least second web site for the at least one of the one or more configurations in the order received directly from the buyer

Any pricing information obtained by a spider in Hsia is read by the KnowledgeByGo and not the website. Also, nowhere does Hsia teach or suggest that the pricing information obtained is for the at least one configuration selected by the buyer for purchase as indicated by the order, which is received directly from the buyer. Accordingly, the presently claimed invention distinguishes over Hsia for at least these reasons as well.

The Examiner further states that Hsia teaches:

before presenting a selling price to a buyer using the first website, calculating the selling price for each of the configurations of the product and/or service based on the competitor's price (§0024 — note that the price is updated based on the competitor's price)

However, amended claim 3 now more clearly recites:

before presenting a selling price to the buyer by the first website, calculating, by the first website, the selling price for the at least one of the one or more configurations in the order received directly from the buyer of the product and/or service based on a competitor's price associated with the at least one competitor's pricing information...

The website in Hsia that the user is at does not calculate a selling price. Instead, the KnowledgeByGo service updates pricing information so that its subscribing websites can offer competitive pricing. Also, Hsia does not teach that the selling price is calculated “for the at least one of the one or more configurations in the order received directly from the buyer of the product and/or service based on a competitor's price associated with the at least one competitor's pricing

information” after the order is received directly from the buyer. Accordingly, the presently claimed invention distinguishes over Hsia for at least these reasons as well.

The Examiner correctly states on page 4 of the present Office Action that:

While Hsia teaches generally the method of offering a product and/or service for sale on a website, using a spider to retrieve competitor prices, and updating prices based on the competitor prices, it does not specifically teach wherein the product and/or service is available for purchase in one or more configurations, reading the prices for each configuration, and before presenting a selling price, calculating the selling price for each configuration based on the competitor's price such that in response to competitor's price being higher than a highest price that a market will bear, set the selling price to the highest price that the market will bear, in response to the competitor's price being; i) lower than the highest price that the market will bear and ii) higher than a lowest profitable price at the first web site, set the selling price at the competitor's price, and in response to the competitor's price being lower than the lowest profitable price at the first web site, setting the selling price at the lowest profitable price.

However, the Examiner goes on to combine Hsia with Ratliff to overcome the deficiencies of Hsia. Ratliff is directed to a method and system for providing price information. In particular, Ratliff teaches a system that searches for price information for items that can be purchased online. The price information is made available to suppliers so that they can adjust their prices accordingly. After the suppliers have adjusted their prices, a user is shown the adjusted prices from each of the suppliers.

The Examiner states that Ratliff teaches “a method and system for providing price information, retrieving competitor prices, modifying the price to reflect a more competitive price when compared to the competitor prices and providing the results to the customer (see, e.g., Abstract).”

In particular, the Examiner states that Ratliff teaches:

**PATENT
RESPONSE TO FINAL OFFICE ACTION
EXPEDITED PROCEDURE**

wherein the product and/or service is available for purchase in a plurality of configurations and the prices for each configuration is read (¶¶0035-0036 — note that the travel products i.e. airlines, car rental companies and hotels, can be combined to form a number of travel itineraries, i.e. a plurality of configurations)

However, nowhere does Ratliff teach “receiving an order at a first web site directly from a buyer for a product and/or service for sale on the first web site, wherein the product and/or service is available for purchase in one or more configurations, and wherein the order comprises a request to purchase a selection made by the buyer for at least one of the one or more configurations of the product and/or service” as recited for the presently claimed invention. In fact, Ratliff is merely concerned with searching for prices and returning a multiple options for a user to choose from. For example, Ratliff gives numerous examples using airline fare search engines. In these examples, a user enters search parameters such as departure/arrival cities and dates. The airlines are given the opportunity to change their prices for flights based on many factors including competitor pricing information. A user is then provided with results showing pricing information for the requested search parameters from the various airlines.

Ratliff states in paragraph [0035] that “Although the concepts of the embodiments of the invention are explained below in connection with travel products and services, they are obviously not limited to such products and services. The general approach should be extensible to almost anything that can be bought on-line (computer hardware and software, CDs, automobiles, insurance, mortgages, retail goods, etc.) using a search process involving competitive offerings, such as any electronic commerce method.” However, the only example, Ratliff gives that is not concerned with air travel is with respect to car pricing. See Ratliff at paragraphs [0061]-[0064]. In this example a user searches for a particular type of car and the dealerships offering that car are able to adjust their pricing based on their competitors’ prices. The final prices are the returned to user. In other words, a user has not transmitted an order for a car to purchase the car, but has submitted a search to obtain pricing information for the car.

The presently claimed invention, on the other hand states “receiving an order at a first web site directly from a buyer for a product and/or service for sale on the first web site, wherein the product and/or service is available for purchase in one or more configurations, and wherein the

order comprises a request to purchase a selection made by the buyer for at least one of the one or more configurations of the product and/or service”. In other words, the buyer, in the presently claimed invention, has selected the one or more configurations of a product and/or service and has submitted an order to purchase the configured product and/or service. Nowhere does Ratliff teach that the buyer has selected one or more configurations and that the website has received the order to purchase the selected configurations. Ratliff is only concerned with a user submitting a pricing request for items. Accordingly, the presently claimed invention distinguishes over Ratliff for at least these reasons.

The Examiner further states that Ratliff teaches:

it is old and well known in the art for suppliers to research their competitors' prices and set their own prices accordingly (§§0010-0011), and before presenting a selling price, calculating the selling price for each configuration based on the competitor's price such that in response to competitor's price being higher than a highest price that a market will bear, set the selling price to the highest price that the market will bear, in response to the competitor's price being; i) lower than the highest price that the market will bear and ii) higher than a lowest profitable price at the first web site, set the selling price at the competitor's price, and in response to the competitor's price being lower than the lowest profitable price at the first web site, setting the selling price at the lowest profitable price (§§0011, 0037, 0052-0056 and 0078 — note that the price the market depends on the market and can be the price that the buyer is willing to purchase at, the price that the agent has negotiated with, the price that reflects a minimum profit margin, or a number of other prices, that profitable means simply that no loss occurs, and that the companies decide which rules they want to apply to pricing including profitability, competitiveness, revenue goals, or other factors such as marketing opportunities).

However, paragraphs [0010]-[0011] of Ratliff state that the research and price adjustment is performed manually, not by a website. Furthermore, nowhere does Ratliff teach or suggest that the website offering a product and/or service for sell adjusts a selling price after an order is received directly from a buyer, wherein the order comprises a request to purchase a selection made by the buyer for at least one of the one or more configurations of the product and/or service. As discussed above, Ratliff simply does not teach this claim element. Ratliff further does not teach that the website offering the product/service for sale and that has received the order from the buyer instructs a spider to obtain competitors' pricing information for the configuration selected by the user after the order is received from the buyer. The presently

claimed invention has the distinct advantage over Ratliff in that since the spider collects pricing information after the buyer submits his/her order the pricing information is as current as possible, which Ratliff does not teach.

Therefore, Ratliff cannot teach or suggest the presently claimed:

before presenting a selling price to the buyer by the first website, calculating, by the first website, the selling price for the at least one of the one or more configurations in the order received directly from the buyer of the product and/or service based on a competitor's price associated with the at least one competitor's pricing information as follows:

in response to the competitor's price being higher than a highest price that a market will bear, set the selling price to the highest price that the market will bear;

in response to the competitor's price being; i) lower than the highest price that the market will bear and ii) higher than a lowest profitable price at the first web site, set the selling price at the competitor's price;

in response to the competitor's price being lower than the lowest profitable price at the first web site, set the selling price at the lowest profitable price; and

presenting, by the first website, the at least one of the one or more configurations of the product and/or service which has been ordered for the selling price which has been calculated based on the competitor's price.

which occurs after the order has been received from the user for purchasing the selected configurations(s). As discussed above, Ratliff is concerned with a pricing request, which occurs prior to a user selecting a configuration and submitting an order to purchase the configuration. Accordingly, the presently claimed invention distinguishes over Ratliff for at least these reasons as well.

Independent claims 10 and 16 have been amended to recite similar limitations as independent claims 3. The Applicant believes that independent claims 10 and 16 of the present invention distinguishes over Hsia alone, and/or in combination with Ratliff for at least this reason as well for the same reasons set forth hereinabove. Accordingly, the Applicant respectfully submits that the Examiner's rejection under 35 U.S.C. §103(a) has been overcome.

For the foregoing reasons, independent claims 3, 10, and 16 distinguish over Hsia alone, and/or in combination with Ratliff. Claims 6-8 and 13-14 depend from claims 3, 10, and 16,

**PATENT
RESPONSE TO FINAL OFFICE ACTION
EXPEDITED PROCEDURE**

respectively, since dependent claims contain all the limitations of the independent claims, claims 6-8 and 13-14 distinguish over Hsia alone, and/or in combination with Ratliff as well, and the Examiner's rejection should be withdrawn.

Rejection of Claims Under 35 U.S.C. §103(a) in view of Hsia/Ratliff/ and Maritzen

As noted above, the Examiner rejected claims 4, 5, 11-12, and 17-18 under 35 U.S.C. § 103(a) as being unpatentable over Hsia (U.S. Pre-Grant Publication No. 2002/0178166) in view of Ratliff et al. (U.S. Pre-Grant Publication No. 2003/0191725) and in further view of Maritzen et al. (US Pre-Grant Publication No. 2002/0052797). The Applicants believe that the amended independent claims 3, 10, and 16 of the present invention should be allowed for at least the reasons previously stated hereinabove. Claims 4, 5, 11, 12, 17 and 18 depend from claims 3, 10 and 16 respectively. Since dependent claims contain all the limitations of the independent claims, claims 4, 5, 11, 12, 17 and 18 distinguish over Hsia take alone and/or in view of Ratliff and/or in view of Maritzen, as well, and the Examiner's rejection should be withdrawn.

CONCLUSION

In this Response, Applicants have amended certain claims. In light of the Office Action, Applicants believe these amendments serve a useful clarification purpose, and are desirable for clarification purposes, independent of patentability. Accordingly, Applicants respectfully submit that the claim amendments do not limit the range of any permissible equivalents.

Applicants acknowledge the continuing duty of candor and good faith to disclosure of information known to be material to the examination of this application. In accordance with 37 CFR § 1.56, all such information is dutifully made of record. The foreseeable equivalents of any territory surrendered by amendment is limited to the territory taught by the information of record. No other territory afforded by the doctrine of equivalents is knowingly surrendered and everything else is unforeseeable at the time of this amendment by the Applicants and their attorneys.

**PATENT
RESPONSE TO FINAL OFFICE ACTION
EXPEDITED PROCEDURE**

Applicants respectfully submit that all of the grounds for rejection stated in the Examiner's Office Action have been overcome, and that all claims in the application are allowable. No new matter has been added. It is believed that the application is now in condition for allowance, which allowance is respectfully requested.

The Commissioner is hereby authorized to charge any fees that may be required or credit any overpayment to Deposit Account 50-0510.

PLEASE CALL the undersigned attorney at (561) 989-9811 should the Examiner believe a telephone interview would help advance prosecution of the application.

Respectfully submitted,

Date: February 5, 2008

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